NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Madeleine Clayton 03/11/2002
Departmental Forms Clearance Officer
Office of the Chief Information Officer
14th and Constitution Ave. NW.
Room 6086
Washington, DC 20230

In accordance with the Paperwork Reduction Act, OMB has taken the following action on your request for approval of the reinstatement of an information collection received on 01/10/2002.

TITLE: Southeast Region Bycatch Reduction Device Certification Family of Forms

AGENCY FORM NUMBER(S): None

ACTION : APPROVED
OMB NO.: 0648-0345
EXPIRATION DATE: 03/31/2005

BURDEN	RESPONSES	BURDEN HOURS	BURDEN COSTS
Previous	0	0	0
New	4,926	7,500	338
Difference	4,926	7,500	338
Program Change		7,500	338
Adjustment		0	0

TERMS OF CLEARANCE: None

NOTE: The agency is required to display the OMB control number and inform respondents of its legal significance (see 5 CFR 1320.5(b)).

OMB Authorizing Official Title

Donald R. Arbuckle Deputy Administrator, Office of Information and Regulatory Affairs

PAPERWORK REDUCTION ACT SUBMISSION

Please read the instructions before completing this form. For additional forms or assistance in completing this form, contact your agency's Paperwork Clearance Officer. Send two copies of this form, the collection instrument to be reviewed, the supporting statement, and any additional documentation to: Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.

1. Agency/Subagency originating request
DOC/NOAA/NMFS/Southeast Regional Office

2. OMB control number b. [ ] None
a. 0648 - 0345

3. Type of information collection (*check one*)
a. [ ] New Collection
b. [ ] Revision of a currently approved collection
c. [ ] Extension of a currently approved collection
d. [✔] Reinstatement, without change, of a previously approved collection for which approval has expired
e. [ ] Reinstatement, with change, of a previously approved collection for which approval has expired
f. [ ] Existing collection in use without an OMB control number
For b-f, note Item A2 of Supporting Statement instructions

4. Type of review requested (*check one*)
a. [✔] Regular submission
b. [ ] Emergency - Approval requested by / /
c. [ ] Delegated

5. Small entities
Will this information collection have a significant economic impact on a substantial number of small entities? [ ] Yes [✔] No

6. Requested expiration date
a. [✔] Three years from approval date b. [ ] Other Specify: /

7. Title Southeast Region Bycatch Reduction Device Certification Family of Forms

8. Agency form number(s) (*if applicable*)

9. Keywords 'fishing industry, fishing vessels'

10. Abstract

Persons seeking to obtain certification for bycatch reduction devices to be used on shrimp vessels in the Gulf of Mexico or South Atlantic must apply for authorization to conduct tests and submit the test results. Persons seeking certification to be observers for such tests in the Gulf of Mexico must file an application and provide two references. The information is needed for NOAA to determine if the equipment meets the standards that would allow its use in commercial fisheries.

11. Affected public (*Mark primary with "P" and all others that apply with "x"*)
a. x Individuals or households d. ___ Farms
b. P Business or other for-profit e. ___ Federal Government
c. ___ Not-for-profit institutions f. ___ State, Local or Tribal Government

12. Obligation to respond (*check one*)
a. [ ] Voluntary
b. [✔] Required to obtain or retain benefits
c. [ ] Mandatory

13. Annual recordkeeping and reporting burden

a. Number of respondents	31
b. Total annual responses	4,926
1. Percentage of these responses collected electronically	0 %
c. Total annual hours requested	7,500
d. Current OMB inventory	0
e. Difference	7,500
f. Explanation of difference	
1. Program change	7,500
2. Adjustment	

14. Annual reporting and recordkeeping cost burden *(in thousands of dollars)*

a. Total annualized capital/startup costs	0
b. Total annual costs (O&M)	338
c. Total annualized cost requested	338
d. Current OMB inventory	0
e. Difference	338
f. Explanation of difference	
1. Program change	338
2. Adjustment	

15. Purpose of information collection (*Mark primary with "P" and all others that apply with "X"*)
a. ___ Application for benefits e. ___ Program planning or management
b. ___ Program evaluation f. x Research
c. ___ General purpose statistics g. P Regulatory or compliance
d. ___ Audit

16. Frequency of recordkeeping or reporting *(check all that apply)*
a. [ ] Recordkeeping b. [ ] Third party disclosure
c. [✔] Reporting
1. [✔] On occasion 2. [ ] Weekly 3. [ ] Monthly
4. [ ] Quarterly 5. [ ] Semi-annually 6. [ ] Annually
7. [ ] Biennially 8. [ ] Other (describe)

17. Statistical methods
Does this information collection employ statistical methods
[ ] Yes [✔] No

18. Agency Contact (person who can best answer questions regarding the content of this submission)
Name: James Nance
Phone: 409-766-3507

19. Certification for Paperwork Reduction Act Submissions

On behalf of this Federal Agency, I certify that the collection of information encompassed by this request complies with 5 CFR 1320.9

NOTE: The text of 5 CFR 1320.9, and the related provisions of 5 CFR 1320.8(b)(3), appear at the end of the instructions. *The certification is to be made with reference to those regulatory provisions as set forth in the instructions.*

The following is a summary of the topics, regarding the proposed collection of information, that the certification covers:

(a) It is necessary for the proper performance of agency functions;

(b) It avoids unnecessary duplication;

(c) It reduces burden on small entities;

(d) It used plain, coherent, and unambiguous terminology that is understandable to respondents;

(e) Its implementation will be consistent and compatible with current reporting and recordkeeping practices;

(f) It indicates the retention period for recordkeeping requirements;

(g) It informs respondents of the information called for under 5 CFR 1320.8(b)(3):

(i) Why the information is being collected;

(ii) Use of information;

(iii) Burden estimate;

(iv) Nature of response (voluntary, required for a benefit, mandatory);

(v) Nature and extent of confidentiality; and

(vi) Need to display currently valid OMB control number;

(h) It was developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected (see note in Item 19 of instructions);

(i) It uses effective and efficient statistical survey methodology; and

(j) It makes appropriate use of information technology.

If you are unable to certify compliance with any of the provisions, identify the item below and explain the reason in Item 18 of the Supporting Statement.

Signature of Senior Official or designee	Date

Agency Certification (signature of Assistant Administrator or head of MB staff for L.O.s, or of the Director of a Program or Staff Office)	
Signature signed by John Oliver	Date 10/31/2001
Signature of NOAA Clearance Officer	
Signature signed by Richard Roberts	Date 11/02/2001

SUPPORTING STATEMENT
BRD Testing and Certification for Shrimp Fisheries
South Atlantic and Gulf of Mexico
Southeast Region

OMB CONTROL NO. 0648-0345

This document consists of 2 parts: Part 1 (Gulf of Mexico), and Part 2 (South Atlantic). This 2-part structure is appropriate because the protocols for the South Atlantic and Gulf of Mexico differ based on variances between the Gulf of Mexico Fishery Management Council and South Atlantic Fishery Management Council, and the corresponding testing and certification conditions. The 2 Councils are considering future action to standardize the protocols, but intend that the protocols (and corresponding analyses) remain separate in the interim period prior to those actions.

PART 1 SUPPORTING STATEMENT
BRD Testing and Certification for Shrimp Fisheries
Gulf of Mexico
Southeast Region
OMB CONTROL NO. 0648-0345

A. JUSTIFICATION

1. Explain the circumstances that make the collection of information necessary.

The legislative authority to collect data from the various sectors of the economy that harvest marine resources in the exclusive economic zone (EEZ) is the Magnuson-Stevens Fishery Conservation and Management Act of 1976 (Magnuson-Stevens Act), as amended. Amendment 9 to the Fishery Management Plan (FMP) for the Shrimp Fishery of the Gulf of Mexico requires the use of certified BRDs in all penaeid shrimp trawls in the EEZ in the Gulf of Mexico within the 100-fathom contour west of Cape San Blas, Florida. Amendment 9 also contains a framework procedure for establishing and modifying the BRD testing protocol, for certifying BRDs and their specifications. A copy of the regulations governing this collection is attached (50 CFR 622.41(h)).

Trawling in the Gulf of Mexico shrimp fisheries results in large amounts of finfish being discarded dead. Impacts of bycatch and discards result in significant biological waste, biological overfishing of target and bycatch species, economic losses in finfish fisheries, modification of biological community structure, and may result in unacceptable mortality on threatened, or endangered species. The Gulf of Mexico Fishery Management Council is concerned about the magnitude of bycatch of overfished species in shrimp trawls. The Gulf of Mexico Fishery Management Council prepared Amendment 9 to reduce the adverse impacts of shrimp trawls and thereby assist in the recovery of these resources.

Shrimp fishermen in the affected EEZ areas are required to use BRDs that have been approved by NMFS. The development of BRDs is a dynamic process. As fishermen and other people become more knowledgeable about the behavior of fish in shrimp trawls, they will develop new ideas on ways to reduce the incidental catch of different species of concern while minimizing the loss of shrimp.

In the Gulf, the first stage, an optional pre-certification phase, consists of an individual applying to the RA for a letter of authorization (LOA) to conduct a preliminary evaluation of a prototype BRD. The objective of the pre-certification phase is to provide a mechanism whereby an individual can experiment with the design, construction, and configuration of a prototype BRD for as long as 60 days to evaluate and improve the design's effectiveness at reducing the bycatch of red snapper. There is no formal observer requirement during this 60-day period. Assuming that the applicant tows four standard shrimp trawls, the applicant would be authorized to remove or disable an existing BRD in one net to act as a control, and one net would be equipped with the prototype BRD; all other nets under tow during this phase would continue to use certified BRDs. Any authorized applicant who subsequently applies for BRD certification testing of this design

must include the results of the pre-certification evaluation with the certification application. Therefore, for each paired tow, the applicant should evaluate and keep a written record of the differences in the weight of the shrimp catch, the weight of the finfish catch, and the total catch (in numbers) of red snapper between each net. The form contained in Appendix D of the Bycatch Reduction Device Testing Protocol Manual should be used to record this information. The duration of the pre-certification authorization may not exceed 60 days.

The second stage, the certification trials, consists of an individual: (1) applying to test the BRD; (2) conducting the tests; and (3) submitting the results to the RA in accordance with the Bycatch Reduction Device Testing Protocol Manual, which contains the testing protocol and the specific reporting requirements for the test results. Although that manual (the protocol) has been changed, the forms and data collection have remained the same. An important consideration will be how the applicant plans to monitor and record test results from the certification trials. This must be done by a qualified and trained observer. It is the responsibility of the applicant to ensure this type of an observer is available for the tests. Observers are provided by a 3rd party agent. The applicant can have no financial relationship to the observer. For the most part, observers will be state or federal employees or contracted observers working for another institution such as a university. No cost is thus associated for the observer.

The BRD testing manual contains the protocol that researchers must use to test the effectiveness of any new or modified BRD in reducing bycatch of juvenile (age 0 and age 1) red snapper. It describes the experimental design and basic data requirements. Standardized forms for describing the tests and reporting their results are specified in the manual. Appendices to the manual contain data entry codes, illustrations of fish measurements, statistical reporting zones, proper statistical analytical techniques, illustrations of key species, and other information concerning the proper conduct of testing, including data management instructions.

An applicant requesting authorization for pre-certification or certification evaluation of an unapproved hard or soft TED as a BRD must first apply for and obtain from the RA an experimental TED authorization pursuant to requirements outlined by 50 CFR 622.41(h). The test application must include the above information, as well as a copy of that authorization.

Any BRD that is eligible for NMFS certification must be shown to reduce the bycatch component of fishing mortality for juvenile red snapper by at least 44 percent. The RA is responsible for review and certification of BRDs for use in the Gulf of Mexico EEZ. A certified observer is required to collect the data because of the complexity; however, the applicant must submit the results of BRD certification trials directly to NMFS and is responsible for its content. Such submissions would be evaluated by NMFS with the RA making the final decision on BRD certification pursuant to the certification criteria, testing protocol, and terms of the FMP. Certification of a new or modified BRD would be announced by the RA through publication of a notice in the Federal Register.

The RA will advise the applicant, in writing, if a BRD is not certified. This notification will explain why the BRD was not certified and what the applicant may do to modify the BRD or the testing procedures to improve the chances of having the BRD certified in the future. If certification was denied because of insufficient information, the RA will explain what

information is lacking. The applicant must provide the information within 60 days from receipt of such notification; otherwise, the applicant must reapply. If the RA subsequently certifies the BRD, the RA would announce the certification in the Federal Register, amending the list of certified BRDs.

Upon certification, it is anticipated that the manufacturers of the BRD candidates may seek patents or copyrights for the designs. Proceeds from the sale of the certified BRDs should more than offset any costs associated with the development of the device.

2. Explain how, by whom, how frequently, and for what purpose the information will be used.

The Applications for Pre-certification of BRDs for Use in the Gulf of Mexico and forms for Testing a Bycatch Reduction Device in the Exclusive Economic Zone, and list of qualifications for observers will be included in the Bycatch Reduction Device Testing Protocol Manual. The application forms will be the means to apply for permission from the RA to test a BRD candidate for pre-certification or certification as an approved BRD device in the Gulf of Mexico shrimp fisheries. A final report will be the procedure for submitting all the necessary forms and information at the end of the test.

Upon receipt of an application, the RA would issue an LOA authorizing the applicant to either pretest a BRD candidate or to test the BRD candidate under the SEFSC's supervision and submit the results to the RA in accordance with the Bycatch Reduction Device Testing Protocol Manual, which contains the testing protocol and the specific reporting requirements for the test results. The purpose of the LOA is to exempt the testing of the BRD candidate from the applicable Federal requirements for certified BRDs in shrimp trawls. The SEFSC has the primary responsibility for evaluating and advising the RA concerning the certification of new BRD candidates and qualifications of observers. Data from the certification tests will be the primary data for evaluating the effectiveness of the BRD candidates.

A summary of the information required in the Application for Pre-certification Design Phase for Developing Bycatch Reduction Device for Use in the Gulf of Mexico follows:

Application. An applicant for pre-certification design evaluation should submit the following information to the RA, NMFS, Southeast Regional Office:

1. An Application to Test A Bycatch Reduction Device in the Exclusive Economic Zone (Appendix J-1).

2. A brief statement of the purpose and goal of the activity for which authorization is requested.

3. Scope, duration, date, and general location where the preliminary evaluation would take place.

4. An 8.5 inch x 11 inch diagram drawn to scale of the design of the bycatch reduction device (BRD).

5. An 8.5 inch x 11 inch diagram drawn to scale of the BRD and approved turtle excluder device (TED) in the shrimp trawl.

6. A description of how the BRD is supposed to work.

7. A copy of the vessel documentation/registration.

A summary of the information required in the Application for Certification Design Phase for Developing Bycatch Reduction Device for Use in the Gulf of Mexico follows:

To receive authorization to conduct a certification test of a BRD candidate (including tests of an approved hard or soft TED), an applicant must complete and send the complete test application to the RA. The complete test application consists of an Application to Test A Bycatch Reduction Device in the Exclusive Economic Zone (Appendix J-1), a copy of the vessel's current Coast Guard certificate of documentation or, if not documented, its state registration certificate; and a test plan showing: (1) an 8.5-inch x 11-inch (21.6-cm x 27.9-cm) diagram drawn to scale of the BRD candidate; (2) an 8.5-inch x 11-inch (21.6-cm x 27.9-cm) diagram drawn to scale of the BRD candidate and approved TED in the shrimp trawl; (3) a description of how the BRD candidate is supposed to work; (4) the results of previous pre-certification tests, if applicable; and (5) the location, time, and area where the proposed tests would take place; (6) The identity of the observer from the list of qualified individuals maintained by the RA; and (7) certification that the observer has no prior financial relationship with the applicant or entity seeking BRD certification.

An applicant requesting authorization for certification evaluation of an unapproved hard or soft TED as a BRD must first apply for and obtain from the RA an experimental TED authorization pursuant to requirements outlined by 50 CFR 622.41(h). The certification application must include the preceding information, as well as a copy of that authorization.

A summary of the information required in the <u>Bycatch Reduction Device Testing Protocol Manual</u> follows:

Appendix A. Vessel Information Form. This form provides background information on the vessel, its owner, and codes (trip number, vessel, and tow number) for identifying the test. Data such as the date of the test, name of the observer, vessel name, vessel identification number, owner name, and owner address are used to identify the respondent and the legal entity controlling the testing practices of the vessel. This latter requirement is essential in monitoring the compliance of the testing protocol. Information such as the year built, vessel type, hull material, gross tonnage, engine horse power, and crew size, provide information used to calculate the ability of the vessel to catch shrimp. NMFS will print most of this information on this form, the sponsor will review and add his/her required information such as the Captain's or owner's signature. This information is completed at the start of the test.

Appendix B. Gear Specification Form. This form contains the detailed information on the shrimp trawl, BRD and TED for use in configuring the trawl and its components. Trip number, vessel, tow number, data, net position and control/experimental net provide the detailed

information for identifying the specific tows in the test. Net type and measurements provide the detailed information for the size of the trawl. Leg line data provides information on the cables that connect to the doors. Twine, mesh and other gear measures provide the technical information for key parts of the trawl and associated components including the actual location of the BRD on the trawl. These data elements provide the technical information that net makers will use to construct the approved gear and NMFS will use to prepare the regulations.

Appendix C. TED/BRD Specification Form. This form contains information on the proposed BRD, TED, test vessel, associated gear, and whether the test and control nets were switched to control net/side bias. Trip number, vessel, tow number, and date provide controls for organizing the data later. Net position determines whether the vessel is using two or four trawls. Information such as the TED type, angle of TED, size of TED, material, and flotation used; and a detailed description of the BRD including a diagram of the BRD configuration, placement and measurements (e. g., number of meshes) is necessary to describe the gear that will be employed for the test. These data elements provide the technical information that net makers will use to construct the approved gear and NMFS will use to prepare the regulations.

Appendix D. Station Sheet BRD Evaluation Form. This form provides the key information on whether the BRD candidate will meet or exceed the required reduction in juvenile red snapper bycatch mortality and the associated loss in shrimp. For the control and test trawls, information such as the tow number, observer, date, time in, latitude in, longitude in, depth, hours towed, vessel speed, statistical zone, operational code, total nets, BRD net position, and control net position are required to describe the test procedures to ensure that the testing protocol is being followed correctly. Data from the control and test trawls such as the total weight of the catch, total shrimp weight, total weight and number of red snapper, number of red snapper greater than and less than 100 mm provide the necessary information for the determining the ability of the BRD to exclude red snapper and the associated loss in shrimp. Information such as comments provides additional data used to understand the results. The captain's signature provides the official results. This form is completed during the test.

Appendix E. Species Characterization Form. This form is used to record the information on the species caught in the test and control trawls. Specific information on how to record the information is in appendix E. The data will be used to assess the environmental impact of the BRD on the species found in the Gulf of Mexico.

Appendix F. Length Frequency Form. The focus of this activity is on red snapper, king mackerel and Spanish mackerel. Red snapper is overfished and the subject of a rebuilding schedule. King mackerel and Spanish mackerel are the subject of scientific investigation to determine what role the incidental catch in shrimp trawls has on the status of these important species. Data such as the trip number, vessel code, tow number, net position and control or test net provide the key organization elements for recording the data on fish lengths. The length of a fish is the most important element in determining the impact of the shrimp trawls (and, therefore, shrimp fleets) on these species. This form is completed during the test.

Appendix G. Condition and Fate Form. The focus of this form is to determine the condition and fate of the organisms caught in a shrimp trawl. Information such as the trip number, vessel

code, tow number, net position and control or test net provide the key organization elements for recording the data. This information will help determine if BRDs really work or just provide fodder for predator fish such as sharks or seabirds.

All the forms A-G above are submitted by the applicant in a Report.

A report on the BRD candidate test results must be submitted for certification. The report must contain a comprehensive description of the tests, copies of all completed data forms used during the certification trials, and photographs, drawings, and similar material describing the BRD. The captain or owner must sign and submit the cover form (Appendix A). The report must include a description and explanation of any unforseen deviations from the protocol which occurred during the test. Applicants must provide information on the cost of materials, labor, and installation of the BRD candidate. In addition, any unique or special circumstances of the tests, including special operational characteristics or fishing techniques which enhance the BRD's performance, should be described and documented as appropriate. This report is essentially a compilation of all of the information and data forms produced during the test. This report is the procedure for submission of the test results.

A summary of the required qualifications of observers follows:

An observer:

a. Must have a Bachelor's degree in fisheries biology or closely related field from an accredited college, have at least six months experience working with a university, college, state fisheries agency, NMFS, or private research organization such as the Gulf and South Atlantic Fisheries Foundation as an observer on a trawler (including research trawlers) in the Southeast Region, or have successfully completed a training course conducted or approved by the Director of the NMFS Southeast Fisheries Science Center.

b. Must not have had a prior financial relationship with a private company or other private business that is applying for a BRD certification test. This restriction does not apply to personnel from universities, colleges, state or Federal agencies, or the Gulf and South Atlantic Fisheries Foundation.

In addition, any individual:

a. Applying to serve as an observer must provide the names, addresses, and telephone numbers of at least three references who can attest to the applicant's background, experiences, and professional ability. These references will be contacted; unsatisfactory references may be a basis for disapproval of an applicant as an observer.

b. Wishing to serve as an observer should submit a resume and supporting documents to the Director, Southeast Fisheries Science Center, 75 Virginia Beach Drive, Miami, FL 33149. The SEFSC will use this information to determine which names will to be included on a list of qualified observers.

If an applicant is not approved as an observer, the RA will notify the applicant of the disapproval and will provide an explanation for the denial.

The BRD test is performed under the supervision of the SEFSC-approved observer. The BRD testing data will provide critical information on the effectiveness of a BRD. Without these data, there is no way of knowing whether the BRD will reduce the incidental red snapper mortality as required or will minimize the loss of shrimp sufficiently to be profitably used in shrimping operations. Consequently, NMFS would not be able to certify new BRD designs or to remove ineffective devices.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.

The Southeast Region's Web site allows the public to obtain a printed copy of the permit application via downloading to their printer. In theory, the Web site provides a suitable mechanism for dissemination of information via downloading of the manual. However, the manuals are unavailable in a format that would allow them to be posted on the Web site. The manuals are expected to be revised and will become available at that time in an electronic format that would be posted on the Web site. Otherwise, no improved information technology has been identified as a practical means for reducing the burden on the public. The SEFSC has been involved in the testing process to assist and ensure the quality of the test.

4. Describe efforts to identify duplication.

The Magnuson-Stevens Act's operational guidelines require each FMP to evaluate existing state and Federal laws that govern the fisheries in question, and the findings are made part of each FMP. Each Fishery Management Council's membership is comprised of state and Federal officials responsible for resource management in their area. These two circumstances identify other collections that may be gathering the same or similar information. Data submitted to NMFS for BRD certification in Federal waters will be provided upon request to states so that the BRD can be certified in state waters. Similarly, data which are collected by or submitted to the states for BRD certification in state waters may be used by NMFS for Federal certification. Each state in the region has an independent BRD testing procedure. Data collected for or by the state for their independent certification program is not part of the burden in this collection although that data may be used for federal certification. Burden time for the state to reproduce the data and forward it to NMFS is included in this submission. Burden time for a state to collect data under federal grant specifically to be submitted to NMFS for federal certification is part of this collection.

Several minor vessel characteristics are collected on both Form A-1 and J-1. However, the duplication in data collection is necessary because that data are used for different purposes and by different NMFS offices. For example, Form A-1 is used as a vessel information form, whereas Form J-1 is used to apply for a authorization to test a BRD in the EEZ. The duplicate data elements, such as vessel identification number, are easily provided by the respondents without additional search of existing data sources. The duplicate data collection therefore would

not require a significant burden time. Otherwise, duplicate testing and data submission will not be required.

5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.

Because all applicants are considered small businesses, separate requirements based on size of business have not been developed. Only the minimum data to meet the analytical needs of the BRD testing protocol are requested from all applicants.

6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.

Reporting is at the request of the respondent. If this collection is not approved, there will be no procedure for approving new BRDs developed by the shrimp industry or NMFS.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

The collection is consistent with the guidelines.

8. Provide a copy of the PRA Federal Register notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

A Federal Register Notice (copy attached) solicited public comment on this renewal. No comments were received.

9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.

There are no payments or gifts to respondents.

10. Describe any assurance or confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.

All Gulf of Mexico data that are submitted are treated as confidential in accordance with NOAA Administrative Order 216-100.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

No questions of a sensitive nature are asked.

12. Provide an estimate in hours of the burden of the collection of information.

In the previous clearance request, NMFS expected up to 24 applicants for the certification process the first year and a much smaller number in following years. While 24 applicants was an estimate at that time, it was based on the number of BRD designs that were tested by NMFS and other institutions in the past and the estimate represented an upper bound of potential new BRD designs that are expected to be offered for testing during the first year. Further, it is fully expected that some of the new designs will not undergo full testing because of early indications that the bycatch reduction criterion will not be met or for practical reasons such as an unacceptably high shrimp loss rate. All testing will be conducted under normal shrimping conditions, and for testing that employs a commercial vessel operated by the regular captain of the vessel, the testing is not expected to significantly affect normal shrimp harvesting operations. NMFS is now testing in the "following years" (as characterized in the previous clearance request) but has not found the previously expected decrease in applicants (the reason for this is unknown). Therefore, the estimate of 24 applicants remains appropriate.

Pre-certification involves a number of forms that will be used to record the results of the tests. The process starts with a formal application for pre-certification testing. The application form for the pre-certification testing is estimated to have a burden of 140 minutes. This includes preparation time of 2 hours per application to read the Bycatch Reduction Device Testing Protocol Manual and assemble the other components of the application process. The total burden for pre-certification application is 2.33 x 24 = **56 hours**.

Any authorized applicant who subsequently applies for BRD certification testing of this design must include the results of the pre-certification evaluation with the certification application. Therefore, for each paired tow, the applicant should evaluate and keep a written record of the differences in the weight of the shrimp catch, the weight of the finfish catch, and the total catch (in numbers) of red snapper between each net. The form contained in Appendix D of the Bycatch Reduction Device Testing Protocol Manual should be used to record this information.

Pre-certification involves sorting, species identification, taking measurements and recording the data from each tow. According to the BRD testing manual, pre-certification involves up to 20 tows. The data should be collected and then entered on the Station Sheet (3 hours including sorting, which had not been addressed in the previous clearance package). The response time in the PRA statement on the station sheet will reflect the revised estimate. Thus the burden will be 60 x 24 = **1,440 hours**.

Certification involves the basic testing regimen and forms used for pre-certification The process starts with a formal application for certification testing. The application for certification testing

has a burden of 140 minutes or **56 hours total**. Once an application is accepted, the successful applicant will be offered the opportunity to participate in certification testing.

Before the initial test tow begins, the applicant should complete a Vessel Information Form that describes the vessel being used and a Gear Specification Form that describes the BRD to be tested. These forms will require a burden or 20 minutes to complete for a total of 16 hours. The applicant will then perform 20 tuning tows and report the results on the Station Sheet Form with a burden of 20 minutes. These forms will require a burden or 20 minutes to complete for a total of 160 hours for all 24 applicants. The applicant must fill out a TED/BRD specification form which has the basic purpose of documenting which of the trawls contains the control of TED/no BRD and which of the trawls contains the TED/new BRD configuration. The testing instructions indicate that the best scientific results will be obtained if the configuration is changed every other day and the applicant would fill out a new TED/BRD specification form each time the configuration is changed. Since gear damage is a normal occurrence during shrimping, a new form is also required for instances when the gear has to be repaired, whether or not the configuration has been changed. It is reasonable to assume that 40 of those days may be devoted to trawling activities and 20 forms would be required. It is estimated that five instances of net damage will occur during the testing process. Hence, up to 25 forms per applicant, or an aggregate of 600 forms are indicated. The time burden has been set at 20 minutes so it will take 200 hours for all 24 applicants. The total for these forms is **376 hours**.

The bulk of the burden associated with certification testing is the need to collect and enter data on the species captured during shrimping operations. In general this involves sorting, species identification, taking measurements and recording the data from each tow. According to the BRD testing manual, certification involves up 30 tows to accomplish the certification test. The data are to be collected and then entered on 4 separate forms, namely the Station Sheet (20 minute burden), the Species Characterization Form (5 hour burden), the Length Frequency Form (20 minute burden) and the Condition and Fate form (20 minute burden). Past experience indicates that it takes about 6 hours to record the data from each tow and 30 tows must be taken. Hence, the burden for data collection and entry is 180 x 24 = **4,320 hours**.

Report

The time to assemble all data forms and prepare the final report is estimated to be 4 hours. The total burden for the final report is 4 x 24 = **96 hours.**

The BRD certification process contains a formal procedure that can be used to enhance the available supply of observers in the event that the current pool is not large enough to cover the testing activities of all participants, especially at times when a number of participants are testing at the same time. . Current information on the existing supply of qualified observers indicates that up to five additional observers may be required. Since the requirements to be an observer are spelled out in great detail, it is unlikely that persons who do not meet these straightforward criteria will apply. It is estimated that the process will require an hour for each applicant. In addition the people providing the references for the observer will require 1 hour for each application. The total burden for the observer application and references is **10 hours**.

Observers are provided by a third party agent. The applicant can have no financial relationship to the observer. Observers will be state or federal employees or contracted observers working for another institution such as a university. No additional cost is thus associated for the observer

We expect 4 respondents to submit a total of 100 responses during the actual tests of the trawls; at 4 hours per response, the total burden time is estimated at **400 hours**.

In addition, we expect 2 independent BRD tests to be performed under the state programs per year. These will probably be forwarded to N&IFS for federal certification. The burden time associated with reproducing the test information and results is estimated at 30 minutes per application.

The estimated total burden for the Gulf of Mexico submissions is **6,755 hours**:

Requirement	Respondents	Responses	Response Time	Burden
Pre-certification	24	24	2.33	56
Pre-certification data	0	480	3	1440
Certification application	0	24	2.33	56
Vessel Information Form	0	24	0.33	8
Gear Specification Form	0	24	0.33	8
Station Sheet Form (tuning)	0	480	0.33	160
TED/BRD Specification Form	0	600	0.33	200
Station Sheet	0	720	0.33	240
Species Characterization Form	0	720	5	3600
Length Frequency Form	0	720	0.33	240
Condition and Fate Form	0	720	0.33	240
Final Reports	0	24	4	96
Observer Certifications	5	5	1	5
Observer References	5	5	1	5
Testing	4	100	4	400
Independent BRD tests (duplication/mailing)	2	2	0.5	1
TOTALS	**26**	**4,672**		**6,755**

13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection.

The applicant's cost for pre-certification testing involves the submission of an application which would total about $10 for the 24 applicants. There will be some cases where the applicant will have an observer on the pre-certification even though one is not required. We estimate that 2 pre-certification applicants will have an observer. The cost of an observer is estimated to equal $450 per day. If two applicants use an observer for 40 days the cost would be $36,000. The total pre-certification cost is **$36,010**. The certification phase requires an observer. Even though two tows can be made per shrimping day it is estimated that it will take each applicant 25 observer days to complete the test. The cost is 25 x 24 x $450 = $270,000. There is an additional cost of duplication and mailing reports estimate at 24 x $20 = $480. The total cost of the certification phase is **$270,480**. The cost to be certified as an observer, including references is $1.00 each for a total of **$5.00**. The total cost is **$306,495**.

Observers are provided by a third party agent. The applicant can have no financial relationship to the observer. Observers will be state or federal employees or contracted observers working for another institution such as a university. No additional cost is thus associated with the observer.

14. Provide estimates of annualized cost to the Federal government.

NMFS will continue to process an estimated 24 pre-certification applications, an estimated 24 certification applications, 5 applications to be certified as an observer and will continue to issue permits or equivalent instruments to the applicants. NMFS uses an administrative cost estimate of $40 per applicant for this type of activity, so the estimated NMFS cost for all 53 applications combined is **$2,120**.

NMFS will have to validate the data collected during the pre-certification and certification tests and there will be costs associated with data entry, error checking, data management and associated tasks. One form will be required during pre-certification (Station Sheet) and 5 different forms that applicants will use to record the data gathered during certification testing (TED/BRD Specification, Station Sheet, Species Characterization, Length Frequency and Condition/Form). Although the forms contain differing amounts of data, it has been estimated that the average cost to perform the various tasks is $5.25 for each form that is processed. We will expect to process 70 Station Sheets (20 pre-certification, 20 tuning tows and 30 certification). It has been previously estimated that up to 20 TED/BRD Specification Forms per applicant will be used for certification. Given 24 applicants for pre-certification and certification, a total of 1680 forms are possible. Each of the other 3 forms is to be filled out once for each tow and 30 tows are possible for certification testing. Hence, each applicant will fill out 90 of these forms during certification. Given 24 applicants, 3,840 forms will be processed by NMFS. In addition each applicant will provide a Vessel Information Form and a Gear Specification Form for an additional 48 forms. The resulting total number of all forms to be processed by NMFS is 3,888 and given the estimate of $5.25 per form, the maximum estimated cost is **$22,932**.

Following processing and data entry, NMFS will also incur costs associated with making decisions as to whether or not individual designs meet the bycatch reduction criterion and to certify successful designs as legal via publication of a notice, and/or technical amendment. Although it cannot be predicted in advance how many of the applicants will complete the full testing regimen or how many new designs will be certified, an estimate of $100 for assessing the results for each applicant yields an upper bound cost estimate of **$2,400** for all 24 applications.

The total cost to government is **$29,174**.

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB 83-I.

Since approval has expired, all of the hours requested are a program change. No other program changes are requested. An adjustment to the burden time was needed to correct underestimates of the sorting time needed to complete the station sheet BRD evaluation.

16. For collections whose results will be published, outline the plans for tabulation and publication.

Results will not be published except for the list of BRDs that have been certified.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.

Not applicable.

18. Explain each exception to the certification statement identified in Item 19 of the OMB 83-I.

There are no exceptions.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not use statistical methods.

PART 2 SUPPORTING STATEMENT
BRD Testing and Certification for Shrimp Fisheries
South Atlantic
Southeast Region
OMB CONTROL NO. 0648-0345

A. JUSTIFICATION

1. Explain the circumstances that make the collection of information necessary.

The legislative authority to collect data from the various sectors of the economy that harvest marine resources in the exclusive economic zone (EEZ) is the Magnuson-Stevens Fishery Conservation and Management Act of 1976 (Magnuson-Stevens Act), as amended. Amendment 2 for the Fishery Management Plan (FMP) for the Shrimp Fishery of the South Atlantic Region required the use of certified bycatch reduction devices (BRDs) in all penaeid shrimp trawls in the Exclusive Economic Zone (EEZ) in the South Atlantic, and established a framework procedure for adding to the list of certified BRDs or modifying their specifications. The regulation governing this is attached to the request (50 CFR 622.41(g)).

Trawling in the South Atlantic shrimp fisheries results in large amounts of finfish being discarded dead. Impacts of bycatch and discards result in significant biological waste, biological overfishing of target and bycatch species, economic losses in finfish fisheries, modification of biological community structure, and may result in unacceptable mortality on threatened, or endangered species. The South Atlantic Fishery Management Council is concerned about the magnitude of bycatch of overfished species in shrimp trawls. The Councils prepared Amendment 2 to reduce the adverse impacts of shrimp trawls and thereby assist in the recovery of these resources.

Shrimp fishermen in the affected EEZ areas are required to use BRDs that have been approved by NMFS. The development of BRDs is a dynamic process. As fishermen and other people become more knowledgeable about the behavior of fish in shrimp trawls, they will develop new ideas on ways to reduce the incidental catch of different species of concern while minimizing the loss of shrimp.

The rule implementing the part of Amendment 2 that allows the testing of new BRDs specifies that a person who proposes a BRD for certification must test such BRD and submit the results to the Regional Administrator (RA) in accordance with the Bycatch Reduction Device Testing Protocol Manual, which contains the testing protocol and the specific reporting requirements for the test results. The South Atlantic protocol has the same wording as the Gulf protocol which identifies that certified observers will be used. The protocol lists qualifications that an observer must meet - not how they are trained and certified.

The BRD testing manual contains the protocol that researchers must use to test the effectiveness of any new or modified BRD in reducing bycatch of weakfish and Spanish mackerel. It describes the experimental design and basic data requirements. Standardized forms for describing the tests and reporting their results are specified in the manual. Appendices to the manual contain data

entry codes, illustrations of fish measurements, statistical reporting zones, proper statistical analytical techniques, illustrations of key species, and other information concerning the proper conduct of testing, including data management instructions.

Any BRD that is eligible for NMFS certification must be shown to reduce the bycatch component of fishing mortality for Spanish mackerel and weakfish by 50 percent, or demonstrate a 40 percent reduction in number of these fish. The RA is responsible for review and certification of BRDs for use in the South Atlantic EEZ. There are two certification procedures. Under the first procedure, a new or modified BRD that is reviewed and recommended by a state management agency, and that meets the bycatch reduction criteria under the testing protocol specified by the Council, would be certified by the RA. Under the second procedure, an individual would submit the results of BRD certification trials directly to NMFS. Such submissions would be evaluated by NMFS with the RA making the final decision on BRD certification pursuant to the certification criteria, testing protocol, and terms of the FMP. Under either the first or second procedure, certification of a new or modified BRD would be announced by the RA through publication of a notice in the Federal Register.

The RA will advise the applicant, in writing, if a BRD is not certified. This notification will explain why the BRD was not certified and what the applicant may do to modify the BRD or the testing procedures to improve the chances of having the BRD certified in the future. If certification was denied because of insufficient information, the applicant will have 60 days from receipt of such notification to provide the additional information; afterwards, the applicant would have to reapply. If the RA subsequently certifies the BRD, the RA would announce the certification in the Federal Register, amending the list of certified BRDs.

Upon certification, it is anticipated that the manufacturers of the BRD candidates will seek patents or copyrights for the designs. Proceeds from the sale of the certified BRDs should offset costs associated with the development of the device.

2. <u>Explain how, by whom, how frequently, and for what purpose the information will be used</u>.

The application to test BRDs in the Exclusive Economic Zone is the document whose submission to the RA begins the formal process that will either lead the certification or rejection of the BRD candidate for use in the South Atlantic shrimp fisheries. The Vessel Information Form and Gear Specification Form are the forms which must be submitted as the application to test BRDs. The RA will then issue a letter which will provide permission to conduct the test. The purpose of the authorization is to exempt the testing of the BRD candidate from the applicable Federal requirements for certified BRDs in shrimp trawls. The Station Sheet BRD Evaluation Form and Length Frequency Form will be filled out during the test. The BRD test is performed under the supervision of the Southeast Fisheries Science Center (SEFSC) approved observer.

a. **Vessel Information Form.** This form will be the primary means for any person, corporation or other entity to apply for permission from the RA to test a BRD candidate for certification as an approved BRD device in the South Atlantic shrimp fisheries. Upon receipt, the RA would

issue a letter authorizing the applicant to test the BRD candidate under the supervision of the Southeast Fisheries Science Center (SEFSC). The SEFSC has the primary responsibility for evaluating and advising the RA concerning the certification of new BRD candidates. Information such as the vessel name, vessel identification number, owner name, and owner address is used to identify the respondent and the legal entity controlling the testing practices of the vessel. This latter requirement is essential in monitoring the compliance of the testing protocol. The date, observer name, vessel length, and time range of testing period provide information on the proposed test and when the testing operation will be conducted.

b. **Gear Specification Form.** The second part of the initial application is information on the proposed BRD as well as vessel and gear information. Information such as the net type, headrope length, footrope length; body mesh size; cod end characteristics (type, mesh size, twine diameter, length, circumference, bag ring placement, chafing gear, and comments); tickler chain length and size; door characteristics (type, length, height, and comments); Turtle Excluder Device (type, angle of TED, size of TED, material, and flotation used); and a detailed description of the BRD including a diagram of the BRD configuration, placement and measurements (e.g., number of meshes) is necessary to describe the gear that will be employed for the test.

c. Station Sheet BRD Evaluation Form. Information such as the tow number, observer, date, time zone, latitude in, longitude in, depth in, vessel speed, BRD net position, control net position, operational code, day/night/both, net position, time out, latitude out, longitude out, depth out, and statistical zone are required to describe the test procedures to ensure that the testing protocol is being followed correctly. Data such as the total weight of the catch, total shrimp weight, finfish subsample weight, total finfish weight, hours towed, predominant shrimp species, target species, comments, captains signature, other species subsample weight and total species weight, and measurements of captured sea turtles provides the basic data to determine the effectiveness of the BRD.

d. **Length Frequency Form.** Information such as the net position sampled, subsample weight, control net position, observer name, genus and species captured, measurement code, and length of fish are required to evaluate the effectiveness of the BRDs on particular species. The BRD testing data provide critical information on the effectiveness of BRDs. Without these data, there is no way of knowing whether the BRD minimizes the loss of shrimp sufficiently or reduces the number of bycatch species sufficiently to be used in shrimping operations.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.

The Southeast Region's Web site allows the public to obtain a printed copy of the permit application via downloading to their printer. In theory, the Web site provides a suitable mechanism for dissemination of information via downloading of the manual. However, the manuals are unavailable in a format that would allow them to be posted on the Web site. The manuals are expected to be revised and will become available at that time in an electronic format that would be posted on the Web site. Otherwise, no improved information technology has been

identified as a practical means for reducing the burden on the public. The SEFSC has been involved in the testing process to assist and ensure the quality of the test.

4. Describe efforts to identify duplication.

The Magnuson-Stevens Act's operational guidelines require each FMP to evaluate existing state and Federal laws that govern the fisheries in question, and the findings are made part of each FMP. Each Fishery Management Council's membership is comprised of state and Federal officials responsible for resource management in their area. These two circumstances identify other collections that may be gathering the same or similar information. Data submitted to NMFS for BRD certification in Federal waters will be provided upon request to states so that the BRD can be certified in state waters. Similarly, data which are collected by or submitted to the states for BRD certification in state waters may be used by NMFS for Federal certification. Each state in the region has an independent BRD testing procedure. Data collected for or by the state for their independent certification program is not part of the burden in this collection although that data may be used for federal certification. Burden time for the state to reproduce the data and forward it to NMFS is included in this submission. Burden time for a state to collect data under federal grant specifically to be submitted to NMFS for federal certification is part of this collection. Duplicate testing and data submission will not be required.

5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.

Because all applicants are considered small businesses, separate requirements based on size of business have not been developed. Only the minimum data to meet the analytical needs of the BRD testing protocol are requested from all applicants.

6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.

Reporting is at the request of the respondent. If this collection is not approved, there will be no procedure for approving new BRDs developed by the shrimp industry or NMFS.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

The collection is consistent with the guidelines.

8. Provide a copy of the PRA Federal Register notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

A Federal Register Notice (copy attached) solicited public comment on this renewal. No comments were received.

9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.

There are no payments or gifts to respondents.

10. Describe any assurance or confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.

All south Atlantic data that are submitted are treated as confidential in accordance with NOAA Administrative Order 216-100.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

No questions of a sensitive nature are asked.

12. Provide an estimate in hours of the burden of the collection of information.

The reporting requirements for the BRD testing protocols for the South Atlantic consist of completing a vessel information form, a gear form, a station sheet BRD evaluation form, and a length frequency form, and conducting the test. The estimated time to complete a vessel form is 30 minutes; the gear form is 30 minutes; the station sheets will require 60 hours (30 tows with 1 form per tow at 2 hours each; the revised burden time includes sorting which had not been addressed in the previous clearance package); and the length frequency forms 25 hours (30 tows with 1 form per tow at 50 minutes each) for a total of 86 hours. The time required to conduct the test is 100 hours. The total reporting burden for each BRD testing event is estimated at 186 hours. The estimated number of applicants is 4 per year. The total burden is 186 hours times 4 applicants or 744 hours. In addition, we expect 2 independent BRD tests to be performed under the state programs per year. The burden time associated with reproducing the test information and results is estimated at 30 minutes per application. Thus, the total burden for the South Atlantic submission is **745 hours**:

Requirement	Respondents	Response Times	Responses	Burden Time
Vessel Information Form	4	0.5	4	2
Gear Form	4	0.5	4	2
Station Sheet BRD Evaluation Form	4	2	120	240

Requirement	Respondents	Response Times	Responses	Burden Time
Length Frequency Form	4	.833	120	100
Testing	4	100	4	400
Independent BRD tests (duplication/mailing)	2	0.5	2	1
TOTALS	**6**		**254**	**745**

13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection.

The estimated annual costs for South Atlantic BRD testing (excepting mailing and duplication costs) is estimated at $32,000, based on 400 hours of trawler time at $80 per hour. There is an additional cost of duplication and mailing reports ($20 per applicant) estimated at 4 x $20 = $480. Therefore, the total cost is **$32,480.**

Observers are provided by a third party agent. The applicant can have no financial relationship to the observer. Observers will be state or federal employees or contracted observers working for another institution such as a university. No additional cost is thus associated with the observer.

14. Provide estimates of annualized cost to the Federal government.

The estimated annual costs for processing the forms is $5.25 per form. This includes printing costs, labor for site review and data entry, and program management costs. Based on an estimated 328 forms, the cost would be 328 x $5.25 = **$1,722**.

Following processing and data entry, NMFS will also incur costs associated with making decisions as to whether or not individual designs meet the bycatch reduction criterion and to certify successful designs as legal via publication of a notice, and/or technical amendment. Although it cannot be predicted in advance how many of the applicants will complete the full testing regimen or how many new designs will be certified, an estimate of $100 for assessing the results for each applicant yields an upper bound cost estimate of **$400** for all 4 applications.

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB 83-I.

Since approval has expired, all of the hours requested are a program change. No other program changes are requested. An adjustment to the burden time was needed to correct underestimates of the sorting time needed to complete the station sheet BRD evaluation.

16. For collections whose results will be published, outline the plans for tabulation and publication.

Results will not be published except for the list of BRDs that have been certified.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.

Not applicable.

18. Explain each exception to the certification statement identified in Item 19 of the OMB 83-I.

There are no exceptions.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not use statistical methods.

three elements constitutes removal of a longline.

(e) *South Atlantic golden crab.* Traps are the only fishing gear authorized in directed fishing for golden crab in the South Atlantic EEZ. Golden crab in or from the South Atlantic EEZ may not be retained on board a vessel possessing or using unauthorized gear.

(f) *Caribbean queen conch.* In the Caribbean EEZ, no person may harvest queen conch by diving while using a device that provides a continuous air supply from the surface.

(g) *Shrimp in the South Atlantic*—(1) *BRD requirement.* Except as exempted in paragraph (g)(3)(ii) of this section, on a penaeid shrimp trawler in the South Atlantic EEZ, each trawl net that is rigged for fishing and has a mesh size less than 2.50 inches (6.35 cm), as measured between the centers of opposite knots when pulled taut, and each try net that is rigged for fishing and has a headrope length longer than 16.0 ft (4.9 m), must have a certified BRD installed. A trawl net, or try net, is rigged for fishing if it is in the water, or if it is shackled, tied, or otherwise connected to a sled, door, or other device that spreads the net, or to a tow rope, cable, pole, or extension, either on board or attached to a shrimp trawler.

(2) *Certified BRDs.* The following BRDs are certified for use by penaeid shrimp trawlers in the South Atlantic EEZ. Specifications of these certified BRDs are contained in Appendix D of this part.

(i) Extended funnel.

(ii) Expanded mesh.

(iii) Fisheye.

(3) *Certification of BRDs*—(i) A person who seeks to have a BRD certified for use in the South Atlantic EEZ must submit an application to test such BRD, conduct the testing, and submit to the RA the results of the test conducted and recorded in accordance with the Testing Protocol for BRD Certification, which along with forms and procedures, is included in the *Bycatch Reduction Device Testing Protocol Manual* which is available from the SAFMC, One Southpark Circle, Suite 306, Charleston, SC 29407–4699, and from the RA. A BRD that meets the certification criterion, as determined under the Testing Protocol for BRD Certification, will be added to the list of certified BRDs in paragraph (g)(2) of this section.

(ii) A penaeid shrimp trawler that is authorized to test a BRD in the EEZ for possible certification, has such written authorization on board, and is conducting such test in accordance with the Testing Protocol for BRD Certification is granted a limited exemption from the BRD requirement specified in paragraph (g)(1) of this section. The exemption from the BRD requirement is limited to those trawls that are being used in the certification trials. All other trawls rigged for fishing must be equipped with certified BRDs.

(h) *Shrimp in the Gulf*—(1) *BRD requirement.* (i) Except as exempted in paragraphs (h)(1)(ii) through (iv) and paragraph (h)(3)(iii) of this section, on a shrimp trawler in the Gulf EEZ shoreward of the 100-fathom (183-m) depth contour west of 85°30' W. long., each net that is rigged for fishing must have a certified BRD installed. A trawl net is rigged for fishing if it is in the water, or if it is shackled, tied, or otherwise connected to a sled, door, or other device that spreads the net, or to a tow rope, cable, pole, or extension, either on board or attached to a shrimp trawler.

(ii) A shrimp trawler is exempt from the requirement to have a certified BRD installed in each net provided that at least 90 percent (by weight) of all shrimp on board or offloaded from such trawler are royal red shrimp.

(iii) A shrimp trawler is exempt from the requirement to have a BRD installed in a single try net with a headrope length of 16 ft (4.9 m) or less provided the single try net is either pulled immediately in front of another net or is not connected to another net.

(iv) A shrimp trawler is exempt from the requirement to have a certified BRD installed in up to two rigid-frame roller trawls that are 16 ft (4.9 m) or less in length used or possessed on board. A rigid-frame roller trawl is a trawl that has a mouth formed by a rigid frame and a grid of rigid vertical bars; has rollers on the lower horizontal part of the frame to allow the trawl to roll over the bottom and any

obstruction while being towed; and has no doors, boards, or similar devices attached to keep the mouth of the trawl open.

(2) *Certified BRDs.* The following BRDs are certified for use by shrimp trawlers in the Gulf EEZ. Specifications of these certified BRDs are contained in Appendix D to this part.

(i) Fisheye.

(ii) Gulf fisheye.

(iii) Jones-Davis.

(3) *Procedures for certification of additional BRDs.* The process for the certification of additional BRDs consists of two phases—an optional pre-certification phase and a required certification phase.

(i) *Pre-certification.* The pre-certification phase allows a person to test and evaluate a new BRD design for up to 60 days without being subject to the observer requirements and rigorous testing requirements specified for certification testing in the *Gulf Of Mexico Bycatch Reduction Device Testing Protocol Manual.*

(A) A person who wants to conduct pre-certification phase testing must submit an application, as specified in the *Gulf Of Mexico Bycatch Reduction Device Testing Protocol Manual*, to the RA. The *Gulf Of Mexico Bycatch Reduction Device Testing Protocol Manual*, which is available from the RA, upon request, contains the application forms.

(B) After reviewing the application, the RA will determine whether to issue a letter of authorization (LOA) to conduct pre-certification trials upon the vessel specified in the application. The RA will issue a pre-certification phase LOA if the BRD design is substantially unlike any BRD design previously determined not to meet the BRD certification criterion or, if the design is substantially similar to a BRD design previously determined not to meet the BRD certification criteria, and the application demonstrates that the design could meet the certification criterion through design revision or upon retesting (e.g., the application shows that statistical results could be improved upon retesting by such things as using a larger sample size than that previously used). If the RA authorizes pre-certification, the RA's letter of authorization must be on board the vessel during any trip involving the BRD testing.

(ii) *Certification.* A person who proposes a BRD for certification for use in the Gulf EEZ must submit an application to test such BRD, conduct the testing, and submit the results of the test in accordance with the *Gulf Of Mexico Bycatch Reduction Device Testing Protocol Manual.* The RA will issue a LOA to conduct certification trials upon the vessel specified in the application if the RA finds that: The test plan meets the requirements of the protocol; the observer identified in the application is qualified and has no current or prior financial relationship with the entity seeking BRD certification; the application presents a BRD candidate substantially unlike BRDs previously determined not to meet the current bycatch reduction criterion, or the applicant has shown good cause for reconsideration (such as the likelihood of improved statistical results yielded from a larger sample size than that previously used); and for BRDs not previously tested for certification, the results of any pre-certification trials conducted have been reviewed and deemed to indicate a reasonable scientific basis for conducting certification testing. If authorization to conduct certification trials is denied, the RA will provide a letter of explanation to the applicant, together with relevant recommendations to address the deficiencies resulting in the denial. If a BRD meets the certification criterion, as determined under the testing protocol, NMFS will publish a notice in the FEDERAL REGISTER adding the BRD to the list of certified BRDs in paragraph (h)(2) of this section providing the specifications for the newly certified BRD, including any special conditions deemed appropriate based on the certification testing results.

(iii) A shrimp trawler that is authorized to participate in the pre-certification phase or to test a BRD in the EEZ for possible certification has such written authorization on board and is conducting such test in accordance with the *Gulf Of Mexico Bycatch Reduction Device Testing Protocol Manual* is granted a limited exemption from the

BRD requirement specified in paragraph (h)(1) of this section. The exemption from the BRD requirement is limited to those trawls that are being used in the certification trials. All other trawls rigged for fishing must be equipped with certified BRDs.

(i) *Gulf reef fish exhibiting trap rash.* Gulf reef fish in or from the Gulf EEZ that exhibit trap rash may be possessed on board a vessel only if that vessel has a valid fish trap endorsement, as required under §622.4(a)(2)(i), on board. Possession of such fish on board a vessel without a valid fish trap endorsement is prima facie evidence of illegal trap use and is prohibited. For the purpose of this paragraph, trap rash is defined as physical damage to fish that characteristically results from contact with wire fish traps. Such damage includes, but is not limited to, broken fin spines, fin rays, or teeth; visually obvious loss of scales; and cuts or abrasions on the body of the fish, particularly on the head, snout, or mouth.

[61 FR 34934, July 3, 1996, as amended at 61 FR 43959, Aug. 27, 1996; 61 FR 65484, Dec. 13, 1996; 62 FR 18539, Apr. 16, 1997; 63 FR 10568, Mar. 4, 1998; 63 FR 18144, Apr. 14, 1998; 63 FR 38303, July 16, 1998; 64 FR 3628, Jan. 25, 1999; 64 FR 36781, July 8, 1999; 64 FR 37694, July 13, 1999; 64 FR 43941, Aug. 12, 1999; 64 FR 45459, Aug. 20, 1999; 64 FR 52428, Sept. 29, 1999; 64 FR 59126, Nov. 2, 1999; 64 FR 68935, Dec. 9, 1999; 65 FR 16340, Mar. 28, 2000; 65 FR 52957, Aug. 31, 2000]

EFFECTIVE DATE NOTE: At 65 FR 52957, Aug. 31, 2000, §622.41 was amended in paragraph (c)(3)(ii)(B), by removing the word ''Dade'' and adding in its place ''Miami-Dade'', effective Oct. 2, 2000.

§622.42 Quotas.

Quotas apply for the fishing year for each species or species group. Except for the quotas for Gulf and South Atlantic coral, the quotas include species harvested from state waters adjoining the EEZ. Quotas for species managed under this part are as follows. (See §622.32 for limitations on taking prohibited and limited-harvest species. The limitations in §622.32 apply without regard to whether the species is harvested by a vessel operating under a commercial vessel permit or by a person subject to the bag limits.)

(a) *Gulf reef fish*—(1) *Commercial quotas.* The following quotas apply to persons who fish under commercial vessel permits for Gulf reef fish, as required under §622.4(a)(2)(v).

(i) Red snapper—4.65 million lb (2.11 million kg), round weight, apportioned as follows:

(A) Two-thirds of the quota specified in §622.42(a)(1)(i), 3.10 million lb (1.41 million kg), available at noon on February 1 each year, subject to the closure provisions of §§622.34(l) and 622.43(a)(1)(i).

(B) The remainder available at noon on October 1 each year, subject to the closure provisions of §§622.34(l) and 622.43(a)(1)(i).

(ii) Deep-water groupers (i.e., yellowedge grouper, misty grouper, warsaw grouper, snowy grouper, and speckled hind), and, after the quota for shallow-water grouper is reached, scamp, combined—1.60 million lb (0.73 million kg), round weight.

(iii) Shallow-water groupers (i.e., all groupers other than deep-water groupers, jewfish, and Nassau grouper), including scamp before the quota for shallow-water groupers is reached, combined—9.80 million lb (4.45 million kg), round weight.

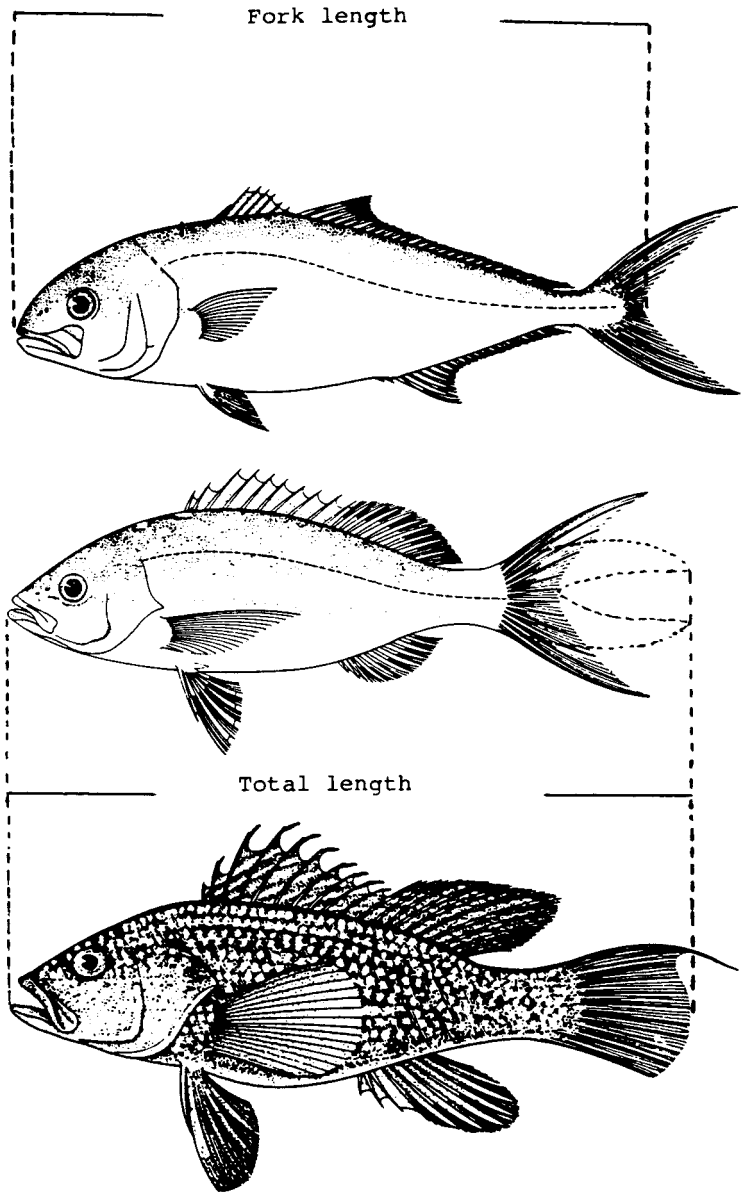
(2) *Recreational quota for red snapper.* The following quota applies to persons who harvest red snapper other than under commercial vessel permits for Gulf reef fish and the commercial quota specified in paragraph (a)(1)(i) of this section—4.47 million lb (2.03 million kg), round weight.

(3) Shallow-water groupers, that is, all groupers other than deep-water groupers, jewfish, and Nassau grouper, including scamp before the quota for shallow-water groupers is reached, combined—9.8 million lb (4.4 million kg), round weight.

(b) *Gulf and South Atlantic allowable octocoral.* The quota for all persons who harvest allowable octocoral in the EEZ of the Gulf and South Atlantic is 50,000 colonies. A colony is a continuous group of coral polyps forming a single unit.

(c) *King and Spanish mackerel.* King and Spanish mackerel quotas apply to persons who fish under commercial vessel permits for king or Spanish mackerel, as required under §622.4(a)(2)(iii) or (iv). A fish is counted against the

FIGURE 2 TO APPENDIX C TO PART 622—ILLUSTRATION OF LENGTH MEASUREMENTS



[61 FR 34934, July 3, 1996, as amended at 64 FR 3630, Jan. 25, 1999]

APPENDIX D TO PART 622—SPECIFICATIONS FOR CERTIFIED BRDS

A. *Extended Funnel.*

1. *Description.* The extended funnel BRD consists of an extension with large-mesh webbing in the center (the large-mesh escape section) and small-mesh webbing on each end held open by a semi-rigid hoop. A funnel of small-mesh webbing is placed inside the extension to form a passage for shrimp to the codend. It also creates an area of reduced water flow to allow for fish escapement through the large mesh. One side of the funnel is extended vertically to form a lead panel and area of reduced water flow. There are two sizes of extended funnel BRDs, a standard size and an inshore size for small trawls.

2. *Minimum Construction and Installation Requirements for Standard Size.*

(a) *Extension Material.* The small-mesh sections used on both sides of the large-mesh escape section are constructed of 1⅝ inch (4.13 cm), No. 30 stretched mesh, nylon webbing. The front section is 120 meshes around by 6½ meshes deep. The back section is 120 meshes around by 23 meshes deep.

(b) *Large-Mesh Escape Section.* The large-mesh escape section is constructed of 8 to 10 inch (20.3 to 25.4 cm), stretched mesh, webbing. This section is cut on the bar to form a section that is 15 inches (38.1 cm) in length by 95 inches (241.3 cm) in circumference. The leading edge is attached to the 6½-mesh extension section and the rear edge is attached to the 23-mesh extension section.

(c) *Funnel.* The funnel is constructed of 1½ inch (3.81 cm), stretched mesh, No. 30 depth-stretched and heat-set polyethylene webbing. The circumference of the leading edge is 120 meshes and the back edge is 78 meshes. The short side of the funnel is 34 to 36 inches (86.4 to 91.4 cm) long and the opposite side of the funnel extends an additional 22 to 24 inches (55.9 to 61.0 cm). The circumference of the leading edge of the funnel is attached to the forward small-mesh section three meshes forward of the large-mesh escape section and is evenly sewn, mesh for mesh, to the small-mesh section. The after edge of the funnel is attached to the after small-mesh section at its top and bottom eight meshes back from the large-mesh escape panel. Seven meshes of the top and seven meshes of the bottom of the funnel are attached to eight meshes at the top and bottom of the small-mesh section, such eight meshes being located immediately adjacent to the top and bottom centers of the small-mesh section on the side of the funnel's extended side. The extended side of the funnel is sewn at its top and bottom to the top and bottom of the small-mesh section, extending at an angle toward the top and bottom centers of the small-mesh section.

(d) *Semi-Rigid Hoop.* A 30-inch (76.2-cm) diameter hoop constructed of plastic-coated trawl cable, swaged together with a ⅜-inch (9.53-mm) micropress sleeve, is installed five meshes behind the trailing edge of the large-mesh escape section. The extension webbing must be laced to the ring around the entire circumference and must be equally distributed on the hoop, that is, 30 meshes must be evenly attached to each quadrant.

(e) *Installation.* The extended funnel BRD is attached 8 inches (20.3 cm) behind the posterior edge of the TED. If it is attached behind a soft TED, a second semi-rigid hoop, as prescribed in paragraph A.2.(d), must be installed in the front section of the BRD extension webbing at the leading edge of the funnel. The codend of the trawl net is attached to the trailing edge of the BRD.

3. *Minimum Construction and Installation Requirements for Inshore Size.*

(a) *Extension Material.* The small-mesh sections used on both sides of the large-mesh escape section are constructed of 1⅜ inch (3.5 cm), No. 18 stretched mesh, nylon webbing. The front section is 120 meshes around by 6½ meshes deep. The back section is 120 meshes around by 23 meshes deep.

(b) *Large-Mesh Escape Section.* The large-mesh escape section is constructed of 8 to 10 inch (20.3 to 25.4 cm), stretched mesh, webbing. This section is cut on the bar to form a section that is 15 inches (38.1 cm) by 75 inches (190.5 cm) in circumference. The leading edge is attached to the 6½-mesh extension section and the rear edge is attached to the 23-mesh extension section.

(c) *Funnel.* The funnel is constructed of 1⅜ inch (3.5 cm), stretched mesh, No. 18 depth-stretched and heat-set polyethylene webbing. The circumference of the leading edge is 120 meshes and the back edge is 78 meshes. The short side of the funnel is 30 to 32 inches (76.2 to 81.3 cm) long and the opposite side of the funnel extends an additional 20 to 22 inches (50.8 to 55.9 cm). The circumference of the leading edge of the funnel is attached to the forward small-mesh section three meshes forward of the large-mesh escape section and is evenly sewn, mesh for mesh, to the small-mesh section. The after edge of the funnel is attached to the after small-mesh section at its top and bottom eight meshes back from the large-mesh escape panel. Seven meshes of the top and seven meshes of the bottom of the funnel are attached to eight meshes at the top and bottom of the small-mesh section, such eight meshes being located immediately adjacent to the top and bottom centers of the small-mesh section on the side of the funnel's extended side. The extended side of the funnel is sewn at its top and bottom to the top and bottom of the small-mesh section, extending at an angle toward the top and bottom centers of the small-mesh section.

(d) *Semi-Rigid Hoop.* A 24-inch (61.0-cm) diameter hoop constructed of plastic-coated trawl cable, swaged together with a ⅜-inch (9.53-mm) micropress sleeve, is installed five meshes behind the trailing edge of the large mesh section. The extension webbing must

be laced to the ring around the entire circumference and must be equally distributed on the hoop, that is, 30 meshes must be evenly attached to each quadrant.

(e) *Installation.* The extended funnel BRD is attached 8 inches (20.3 cm) behind the posterior edge of the TED. If it is attached behind a soft TED, a second semi-rigid hoop, as prescribed in paragraph A.3.(d), must be installed in the front section of the BRD extension webbing at the leading edge of the funnel. The codend of the trawl net is attached to the trailing edge of the BRD.

B. *Expanded Mesh.* The expanded mesh BRD is constructed and installed exactly the same as the standard size extended funnel BRD, except that one side of the funnel is not extended to form a lead panel.

C. *Fisheye.*

1. *Description.* The fisheye BRD is a cone-shaped rigid frame constructed from aluminum or steel rod of at least ¼ inch diameter, which is inserted into the codend to form an escape opening. Fisheyes of several different shapes and sizes have been tested in different positions in the codend.

2. *Minimum Construction and Installation Requirements.* The fisheye has a minimum opening dimension of 5 inches (12.7 cm) and a minimum total opening area of 36 square inches (91.4 square cm). The fisheye must be installed at the top center of the codend of the trawl to create an opening in the trawl facing in the direction of the mouth of the trawl no further forward than 11 ft (3.4 m) from the codend drawstring (tie-off rings) or 70 percent of the distance between the codend drawstring and the forward edge of the codend, excluding any extension, whichever is the shorter distance. In the Gulf EEZ only, when the fisheye BRD is installed in this position, no part of the lazy line attachment system (i.e., any mechanism, such as elephant ears or choker straps, used to attach the lazy line to the codend) may overlap the fisheye escape opening when the fisheye is installed aft of the attachment point of the codend retrieval system.

D. *Gulf fisheye.*

1. *Description.* The Gulf fisheye BRD is a cone-shaped rigid frame constructed from aluminum or steel that is inserted into the top center of the codend, or is offset not more than 15 meshes perpendicular to the top center of the codend, to form an escape opening.

2. *Minimum Construction and Installation Requirements.* The Gulf fisheye is a cone-shaped rigid frame constructed of aluminum or steel rods. The rods must be at least ¼-inch (6.35-mm) diameter. Any dimension of the escape opening must be at least 5.0 inches (12.7 cm), and the total escape opening area must be at least 36.0 in^2 (232.3 cm^2). The Gulf fisheye must be installed in the codend of the trawl to create an escape opening in the trawl, facing in the direction of the mouth of the trawl, no further forward than 12.5 ft (3.81 m) and no less than 8.5 ft (2.59 m) from the codend tie-off rings. When installed in this position, no part of the lazy line attachment system (i.e., any mechanism, such as elephant ears or choker straps, used to attach the lazy line to the codend) may overlap the fisheye escape opening when the fisheye is installed aft of the attachment point of the codend retrieval system. The Gulf fisheye may not be offset more than 15 meshes perpendicular to the top center of the codend.

E. *Jones-Davis.*

1. *Description.* The Jones-Davis BRD is similar to the expanded mesh and the extended funnel BRDs except that the fish escape openings are windows cut around the funnel rather than large-mesh sections. In addition, a webbing cone fish deflector is installed behind the funnel.

2. *Minimum Construction and Installation Requirements.* The Jones-Davis BRD must contain all of the following.

(a) *Webbing extension.* The webbing extension must be constructed from a single piece of 1⅝-inch (3.5-cm) stretch mesh number 30 nylon 42 meshes by 120 meshes. A tube is formed from the extension webbing by sewing the 42-mesh side together.

(b) *28-inch (71.1-cm) cable hoop.* A single hoop must be constructed of ½-inch (1.3-cm) steel cable 88 inches (223.5 cm) in length. The cable must be joined at its ends by a 3-inch (7.6-cm) piece of ½-inch (1.3-cm) aluminum pipe and pressed with a ⅜-inch (0.95-cm) die to form a hoop. The inside diameter of this hoop must be between 27 and 29 inches (68.6 and 73.7 cm). The hoop must be attached to the extension webbing 17½ meshes behind the leading edge. The extension webbing must be quartered and attached in four places around the hoop, and every other mesh must be attached all the way around the hoop using number 24 twine or larger. The hoop must be laced with ⅜-inch (0.95-cm) polypropylene or polyethylene rope for chaffing.

(c) *24-inch (61.0-cm) hoop.* A single hoop must be constructed of either number 60 twine 80 inches (203.2 cm) in length or ⅜-inch (0.95-cm) steel cable 75½ inches (191.8 cm) in length. If twine is used, the twine must be laced in and out of the extension webbing 39 meshes behind the leading edge, and the ends must be tied together. If cable is used, the cable must be joined at its ends by a 3-inch (7.6-cm) piece of ⅜-inch (0.95-cm) aluminum pipe and pressed together with a ¼-inch (0.64-cm) die to form a hoop. The inside diameter of this hoop must be between 23 and 25 inches (58.4 and 63.4 cm). The hoop must be attached to the extension webbing 39 meshes behind the leading edge. The extension webbing must be quartered and attached in four places around the hoop, and every other mesh must be attached all the way around the hoop using number 24 twine or larger.

The hoop must be laced with ⅜-inch (0.95-cm) polypropylene or polyethylene rope for chaffing.

(d) *Funnel.* The funnel must be constructed from four sections of 1½-inch (3.8-cm) heat-set and depth-stretched polypropylene or polyethylene webbing. The two side sections must be rectangular in shape, 29½ meshes on the leading edge by 23 meshes deep. The top and bottom sections are 29½ meshes on the leading edge by 23 meshes deep and tapered 1 point 2 bars on both sides down to 8 meshes across the back. The four sections must be sewn together down the 23-mesh edge to form the funnel.

(e) *Attachment of the funnel in the webbing extension.* The funnel must be installed two meshes behind the leading edge of the extension starting at the center seam of the extension and the center mesh of the funnel's top section leading edge. On the same row of meshes, the funnel must be sewn evenly all the way around the inside of the extension. The funnel's top and bottom back edges must be attached one mesh behind the 28-inch (71.1-cm) cable hoop (front hoop). Starting at the top center seam, the back edge of the top funnel section must be attached four meshes each side of the center. Counting around 60 meshes from the top center, the back edge of the bottom section must be attached 4 meshes on each side of the bottom center. Clearance between the side of the funnel and the 28-inch (71.1-cm) cable hoop (front hoop) must be at least 6 inches (15.2 cm) when measured in the hanging position.

(f) *Cutting the escape openings.* The leading edge of the escape opening must be located within 18 inches (45.7 cm) of the posterior edge of the turtle excluder device (TED) grid. The area of the escape opening must total at least 864 in^2 (5,574.2 cm^2). Two escape openings 10 meshes wide by 13 meshes deep must be cut 6 meshes apart in the extension webbing, starting at the top center extension seam, 3 meshes back from the leading edge and 16 meshes to the left and to the right (total of four openings). The four escape openings must be double selvaged for strength.

(g) *Alternative Method for Constructing the Funnel and Escape Openings.* The following method for constructing the funnel and escape openings may be used instead of the method described in paragraphs F.2.d., F.2.e., and F.2.f. of this section. With this alternative method, the funnel and escape openings are formed by cutting a flap in each side of the extension webbing; pushing the flaps inward; and attaching the top and bottom edges along the bars of the extension webbing to form the v-shape of the funnel. Minimum requirements applicable to this method include: (1) The funnel's top and bottom back edges must be attached one mesh behind the 28-inch (71.1-cm) cable hoop (front hoop); (2) clearance between the side of the funnel and the 28-inch (71.1-cm) cable hoop (front hoop) must be at least 6 inches (15.2 cm) when measured in the hanging position; (3) the leading edge of the escape opening must be located within 18 inches (45.7 cm) of the posterior edge of the turtle excluder device (TED) grid; and, (4) the area of the escape opening must total at least 864 in^2 (5,574.2 cm^2). To construct the funnel and escape openings using this method, begin 3½ meshes from the leading edge of the extension, at the top center seam, count over 18 meshes on each side, and cut 13 meshes toward the back of the extension. Turn parallel to the leading edge, and cut 26 meshes toward the bottom center of the extension. Next, turn parallel to the top center seam, and cut 13 meshes forward toward the leading edge, creating a flap of webbing 13 meshes by 26 meshes by 13 meshes. Lengthen the flap to 18 meshes by adding a 4½-mesh by 26-mesh rectangular section of webbing to the 26-mesh edge. Attach the 18-mesh edges to the top and bottom of the extension by sewing 2 bars of the extension to 1 mesh on the flap in toward the top center and bottom center of the extension, forming the exit opening and the funnel. Connect the two flaps together in the center with a 7-inch piece of number 42 twine to allow adequate clearance for fish escapement between the flaps and the side openings. On each side, sew a 6-mesh by 10½-mesh section of webbing to 6 meshes of the center of the 26-mesh cut on the extension and 6 meshes centered between the 13-mesh cuts 3½ meshes from the leading edge. This forms two 10-mesh by 13-mesh openings on each side.

(h) *Cone fish deflector.* The cone fish deflector is constructed of 2 pieces of 1⅝-inch (4.13-cm) polypropylene or polyethylene webbing, 40 meshes wide by 20 meshes in length and cut on the bar on each side forming a triangle. Starting at the apex of the two triangles, the two pieces must be sewn together to form a cone of webbing. The apex of the cone fish deflector must be positioned within 10–14 inches (25.4–35.6 cm) of the posterior edge of the funnel.

(i) *11-inch (27.9-cm) cable hoop for cone deflector.* A single hoop must be constructed of 5/16-inch (0.79-cm) or ⅜-inch (0.95-cm) cable 34½ inches (87.6 cm) in length. The ends must be joined by a 3-inch (7.6-cm) piece of ⅜-inch (0.95-cm) aluminum pipe pressed together with a ¼-inch (0.64-cm) die. The hoop must be inserted in the webbing cone, attached 10 meshes from the apex and laced all the way around with heavy twine.

(j) *Installation of the cone in the extension.* The cone must be installed in the extension 12 inches (30.5 cm) behind the back edge of the funnel and attached in four places. The midpoint of a piece of number 60 twine 4 ft (1.22 m) in length must be attached to the apex of the cone. This piece of twine must be attached to the 28-inch (71.1-cm) cable hoop

at the center of each of its sides; the points of attachment for the two pieces of twine must be measured 20 inches (50.8 cm) from the midpoint attachment. Two 8-inch (20.3-cm) pieces of number 60 twine must be attached to the top and bottom of the 11-inch (27.9-cm) cone hoop. The opposite ends of these two pieces of twine must be attached to the top and bottom center of the 24-inch (61-cm) cable hoop; the points of attachment for the two pieces of twine must be measured 4 inches (10.2 cm) from the points where they are tied to the 11-inch (27.9-cm) cone hoop.

[62 FR 18539, Apr. 16, 1997, as amended at 64 FR 37694, July 13, 1999]

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

Subpart A—General

Sec.

Subpart B—Limited Access

Subpart C—Management Measures

Subpart D—Restrictions on Imports

Subpart E—International Port Inspection

Subpart F—Enforcement

AUTHORITY: 16 U.S.C. 971 *et seq.*; 16 U.S.C. 1801 *et seq.*

SOURCE: 64 FR 29135, May 28, 1999, unless otherwise noted.

Subpart A—General

§ 635.1 Purpose and scope.

(a) The regulations in this part govern the conservation and management of Atlantic tunas, Atlantic billfish, Atlantic sharks, and Atlantic swordfish under the authority of the Magnuson-Stevens Act and ATCA. They implement the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks, and the Fishery Management Plan for Atlantic Billfishes. The Atlantic tunas regulations govern conservation and management of Atlantic tunas in the management unit. The Atlantic billfish regulations govern conservation and management of Atlantic billfish in the management unit. The Atlantic swordfish regulations govern conservation and management of North and South Atlantic swordfish in the management unit. North Atlantic swordfish are managed under the authority of both ATCA and the Magnuson-Stevens Act. South Atlantic swordfish are managed under the sole authority of ATCA. The shark regulations govern conservation and management of sharks in the management unit, solely under the authority of the Magnuson-Stevens Act. Sharks are managed under the authority of the Magnuson-Stevens Act.

(b) Under section 9(d) of ATCA, NMFS has determined that the regulations contained in this part with respect to Atlantic tunas are applicable within the territorial sea of the United States adjacent to, and within the

SEC. 303. CONTENTS OF FISHERY MANAGEMENT PLANS 16 U.S.C. 1853

95-354, 99-659, 101-627, 104-297

(a) REQUIRED PROVISIONS.--Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, shall--

(1) contain the conservation and management measures, applicable to foreign fishing and fishing by vessels of the United States, which are--

(A) necessary and appropriate for the conservation and management of the fishery to prevent overfishing and rebuild overfished stocks, and to protect, restore, and promote the long-term health and stability of the fishery;

(B) described in this subsection or subsection (b), or both; and

(C) consistent with the national standards, the other provisions of this Act, regulations implementing recommendations by international organizations in which the United States participates (including but not limited to closed areas, quotas, and size limits), and any other applicable law;

(2) contain a description of the fishery, including, but not limited to, the number of vessels involved, the type and quantity of fishing gear used, the species of fish involved and their location, the cost likely to be incurred in management, actual and potential revenues from the fishery, any recreational interest in the fishery, and the nature and extent of foreign fishing and Indian treaty fishing rights, if any;

(3) assess and specify the present and probable future condition of, and the maximum sustainable yield and optimum yield from, the fishery, and include a summary of the information utilized in making such specification;

(4) assess and specify–

(A) the capacity and the extent to which fishing vessels of the United States, on an annual basis, will harvest the optimum yield specified under paragraph (3),

(B) the portion of such optimum yield which, on an annual basis, will not be harvested by fishing vessels of the United States and can be made available for foreign fishing, and

(C) the capacity and extent to which United States fish processors, on an annual basis, will process that portion of such optimum yield that will be harvested by fishing vessels of the United States;

(5) specify the pertinent data which shall be submitted to the Secretary with respect to commercial, recreational, and charter fishing in the fishery, including, but not limited to,

information regarding the type and quantity of fishing gear used, catch by species in numbers of fish or weight thereof, areas in which fishing was engaged in, time of fishing, number of hauls, and the estimated processing capacity of, and the actual processing capacity utilized by, United States fish processors;

(6) consider and provide for temporary adjustments, after consultation with the Coast Guard and persons utilizing the fishery, regarding access to the fishery for vessels otherwise prevented from harvesting because of weather or other ocean conditions affecting the safe conduct of the fishery; except that the adjustment shall not adversely affect conservation efforts in other fisheries or discriminate among participants in the affected fishery;

(7) describe and identify essential fish habitat for the fishery based on the guidelines established by the Secretary under section 305(b)(1)(A), minimize to the extent practicable adverse effects on such habitat caused by fishing, and identify other actions to encourage the conservation and enhancement of such habitat;

(8) in the case of a fishery management plan that, after January 1, 1991, is submitted to the Secretary for review under section 304(a) (including any plan for which an amendment is submitted to the Secretary for such review) or is prepared by the Secretary, assess and specify the nature and extent of scientific data which is needed for effective implementation of the plan;

(9) include a fishery impact statement for the plan or amendment (in the case of a plan or amendment thereto submitted to or prepared by the Secretary after October 1, 1990) which shall assess, specify, and describe the likely effects, if any, of the conservation and management measures on--

(A) participants in the fisheries and fishing communities affected by the plan or amendment; and

(B) participants in the fisheries conducted in adjacent areas under the authority of another Council, after consultation with such Council and representatives of those participants;

(10) specify objective and measurable criteria for identifying when the fishery to which the plan applies is overfished (with an analysis of how the criteria were determined and the relationship of the criteria to the reproductive potential of stocks of fish in that fishery) and, in the case of a fishery which the Council or the Secretary has determined is approaching an overfished condition or is overfished, contain conservation and management measures to prevent overfishing or end overfishing and rebuild the fishery;

(11) establish a standardized reporting methodology to assess the amount and type of bycatch occurring in the fishery, and include conservation and management measures that, to the extent practicable and in the following priority--

(A) minimize bycatch; and

(B) minimize the mortality of bycatch which cannot be avoided;

(12) assess the type and amount of fish caught and released alive during recreational fishing under catch and release fishery management programs and the mortality of such fish, and include conservation and management measures that, to the extent practicable, minimize mortality and ensure the extended survival of such fish;

(13) include a description of the commercial, recreational, and charter fishing sectors which participate in the fishery and, to the extent practicable, quantify trends in landings of the managed fishery resource by the commercial, recreational, and charter fishing sectors; and

(14) to the extent that rebuilding plans or other conservation and management measures which reduce the overall harvest in a fishery are necessary, allocate any harvest restrictions or recovery benefits fairly and equitably among the commercial, recreational, and charter fishing sectors in the fishery.

97-453, 99-659, 101-627, 102-251, 104-297

(b) DISCRETIONARY PROVISIONS.--Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, may--

(1) require a permit to be obtained from, and fees to be paid to, the Secretary, with respect to--

(A) any fishing vessel of the United States fishing, or wishing to fish, in the exclusive economic zone [or special areas,]* or for anadromous species or Continental Shelf fishery resources beyond such zone [or areas]*;

(B) the operator of any such vessel; or

(C) any United States fish processor who first receives fish that are subject to the plan;

(2) designate zones where, and periods when, fishing shall be limited, or shall not be permitted, or shall be permitted only by specified types of fishing vessels or with specified types and quantities of fishing gear;

(3) establish specified limitations which are necessary and appropriate for the conservation and management of the fishery on the--

(A) catch of fish (based on area, species, size, number, weight, sex, bycatch, total biomass, or other factors);

(B) sale of fish caught during commercial, recreational, or charter fishing, consistent with any applicable Federal and State safety and quality requirements; and

(C) transshipment or transportation of fish or fish products under permits issued pursuant to section 204;

(4) prohibit, limit, condition, or require the use of specified types and quantities of fishing gear, fishing vessels, or equipment for such vessels, including devices which may be required to facilitate enforcement of the provisions of this Act;

(5) incorporate (consistent with the national standards, the other provisions of this Act, and any other applicable law) the relevant fishery conservation and management measures of the coastal States nearest to the fishery;

(6) establish a limited access system for the fishery in order to achieve optimum yield if, in developing such system, the Council and the Secretary take into account--

(A) present participation in the fishery,

(B) historical fishing practices in, and dependence on, the fishery,

(C) the economics of the fishery,

(D) the capability of fishing vessels used in the fishery to engage in other fisheries,

(E) the cultural and social framework relevant to the fishery and any affected fishing communities, and

(F) any other relevant considerations;

(7) require fish processors who first receive fish that are subject to the plan to submit data (other than economic data) which are necessary for the conservation and management of the fishery;

(8) require that one or more observers be carried on board a vessel of the United States engaged in fishing for species that are subject to the plan, for the purpose of collecting data necessary for the conservation and management of the fishery; except that such a vessel shall not be required to carry an observer on board if the facilities of the vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized;

(9) assess and specify the effect which the conservation and management measures of the plan will have on the stocks of naturally spawning anadromous fish in the region;

(10) include, consistent with the other provisions of this Act, conservation and management measures that provide harvest incentives for participants within each gear group to employ fishing practices that result in lower levels of bycatch or in lower levels of the mortality of bycatch;

(11) reserve a portion of the allowable biological catch of the fishery for use in scientific research; and

(12) prescribe such other measures, requirements, or conditions and restrictions as are determined to be necessary and appropriate for the conservation and management of the fishery.

97-453, 104-297

Postponement of Preliminary Determination:

On June 28, 2001, the Department initiated the countervailing duty investigation of individually quick frozen red raspberries from Chile. *See Notice of Initiation of Countervailing Duty Investigation: Individually Quick Frozen Red Raspberries From Chile,* 66 FR 34423 (June 28, 2001). The preliminary determination currently must be issued by August 24, 2001.

On August 3, 2001, the petitioners submitted a written request pursuant to 19 CFR 351.205(e) for a postponement of the preliminary determination in accordance with section 703(c)(1)(A) of the Tariff Act of 1930, as amended (''the Act''). The petitioners requested a 45 day postponement (*i.e.*, until October 8, 2001) in order to allow time for the petitioners to submit comments on the respondents' questionnaire response and to allow time for the Department to issue supplemental questionnaires.

The Department finds no compelling reason to deny the request. Therefore, we are postponing the preliminary determination until no later than October 8, 2001.

This notice of postponement is published pursuant to section 703(c)(2) of the Act.

Dated: August 9, 2001.

Richard W. Moreland,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 01–20670 Filed 8–15–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 081301B]

Proposed Information Collection; Comment Request; Southeast Region Bycatch Reduction Device Certification Family of Forms

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506 (c)(2)(A)).

DATES: Written comments must be submitted on or before October 15, 2001.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue NW, Washington DC 20230 (or via Internet at MClayton@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to James R. Nance, Ph.D., F/SEC5, National Marine Fisheries Service, 4700 Avenue U, Galveston, TX 77551 (phone 409–766–3507).

SUPPLEMENTARY INFORMATION:

I. Abstract

Bycatch Reduction Devices (BRDs) are used in shrimp trawls in the Exclusive Economic Zone to reduce the bycatch of other species. Only BRDs certified by the National Oceanic and Atmospheric Administration (NOAA) can be used. Persons seeking to get certification from NOAA for BRDs must submit information showing that testing proves the effectiveness of the equipment.

II. Method of Collection

The information is submitted by paper form.

III. Data

OMB Number: 0648–0345.
Form Number: None.
Type of Review: Regular submission.
Affected Public: Business or other for-profit organizations, individuals or households.
Estimated Number of Respondents: 45.
Estimated Time Per Response: 140 minutes for an application for pre-certification testing or for certification testing, 20 minutes for a Station Sheet (Gulf of Mexico), 50 minutes for a station sheet bycatch reduction device evaluation form (South Atlantic), 20 minutes for a Condition and Fate form, 30 minutes for a gear form (South Atlantic), 20 minutes for a gear specification form (Gulf of Mexico), 20 minutes for a length frequency form (Gulf of Mexico), 50 minutes for a length frequency form (South Atlantic), 5 hours for a species characterization form, 20 minutes for a BRD specification form (Gulf of Mexico), 20 minutes for a vessel information form (Gulf of Mexico), and 30 minutes for a vessel information form (South Atlantic).
Estimated Total Annual Burden Hours: 5,679.
Estimated Total Annual Cost to Public: $338,000.

IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: August 9, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–20654 Filed 8–15–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 081001A]

Endangered Species; Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of permit #1324 and modification #2 to permit 1201.

SUMMARY: Notice is hereby given of the following actions regarding permits for takes of endangered and threatened species for the purposes of scientific research and/or enhancement under the Endangered Species Act (ESA): NMFS has issued permit 1324 to Dr. Nancy Thompson, of NMFS-Southeast Fisheries Science Center (1324) and modification #2 to permit 1201 to Dr. Thane Wibbels, of University of Alabama at Birmingham.

ADDRESSES: The permits, applications and related documents are available for review in the indicated office, by appointment:

Endangered Species Division, F/PR3, 1315 East West Highway, Silver Spring, MD 20910 (phone:301–713–1401, fax: 301–713–0376).